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6 Attorneys for Defendant LONGS DRUG STORES CALIFORNIA, INC.

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 A.J. OLIVER,

12 Plaintiff,

13 v.

14 LONGS DRUG STORES  
15 CALIFORNIA, INC. dba LONGS  
16 DRUGS STORE #55; LONGS DRUG  
STORE, INC.

17 Defendants.

CASE NO. 07CV 2302IEG (BLM)

**DEFENDANT LONGS DRUG  
STORES CALIFORNIA, INC.'S  
ANSWER TO PLAINTIFF'S  
COMPLAINT**

ACTION FILED: December 7, 2007

18  
19 COMES NOW DEFENDANT, LONGS DRUG STORES CALIFORNIA,  
20 INC. ("Defendant"), and hereby answers Plaintiff's Complaint ("Complaint") by  
21 admitting, denying and alleging as follows:

22 I. SUMMARY

23 1. In answer to Paragraph 1 of the Complaint, Defendant need not address  
24 Plaintiff's summary of the action. To the extent that any averment in Paragraph 1 is  
25 deemed to require a response, Defendant denies each and every allegation contained  
26 therein.

27 2. In answer to Paragraph 2 of the Complaint, Defendant need not address  
28 Plaintiff's summary of the action. To the extent that any averment in Paragraph 2 is

1 deemed to require a response, Defendant denies each and every allegation contained  
2 therein.

3 II. JURISDICTION

4 3. In answer to paragraph 3 of the Complaint, Defendant admits the  
5 allegations contained therein.

6 4. In answer to paragraph 4 of the Complaint, Defendant denies each and  
7 every allegation contained therein. On February 25, 2008 the Court dismissed  
8 Plaintiff's state claims for lack of supplemental jurisdiction.

9 5. In answer to paragraph 5 of the Complaint, Defendant admits the  
10 allegations contained therein.

11 III. VENUE

12 6. In answer to paragraph 6 of the Complaint, Defendant admits the  
13 allegations contained therein.

14 IV. PARTIES

15 7. In answer to paragraph 7 of the Complaint, Defendant admits the  
16 allegations contained therein.

17 8. In answer to paragraph 8 of the Complaint, Defendant lacks  
18 sufficient knowledge or information on which to form a belief as to the allegations  
19 asserted in this paragraph and on that basis, denies each and every allegation  
20 contained therein.

21 V. FACTS

22 9. In answer to paragraph 9 of the Complaint, Defendant admits the  
23 allegations contained therein.

24 10. In answer to paragraph 10 of the Complaint, Defendant denies each and  
25 every allegation contained therein.

26 11. In answer to paragraph 11 of the Complaint, Defendant denies each and  
27 every allegation contained therein.

28 12. In answer to paragraph 12 of the Complaint, Defendant denies each and

1 every allegation contained therein.

2 13. In answer to paragraph 13 of Complaint, Defendant denies each and  
3 every allegation contained therein.

4 14. In answer to paragraph 14 of the Complaint, Defendant denies each and  
5 every allegation contained therein.

6 15. In answer to paragraph 15 of the Complaint, Defendant denies each and  
7 every allegation contained therein.

8 VI. FIRST CLAIM

9 **Americans with Disabilities Act of 1990**

10 Denial of "Full and Equal" Enjoyment and Use

11 16. In answer to paragraph 16 of the Complaint, Defendant reasserts its  
12 responses to paragraph 1 through 15 of the Complaint as though set forth fully  
13 herein.

14 17. In answer to paragraph 17 of the Complaint, Defendant states that the  
15 referenced statute speaks for itself and, therefore, requires no response. To the extent  
16 that any averment in paragraph 17 is deemed to require a response, Defendant denies  
17 each and every allegation contained therein.

18 18. In answer to paragraph 18 of the Complaint, Defendant denies each and  
19 every allegation contained therein

20 Failure to Remove Architectural Barriers in an Existing Facility

21 19. In answer to paragraph 19 of the Complaint, Defendant states that the  
22 referenced statute speaks for itself and, therefore, requires no response. To the extent  
23 that any averment in paragraph is deemed to require a response, Defendant denies  
24 each and every allegation contained therein.

25 20. In answer to paragraph 20 of the Complaint, Defendant states that the  
26 referenced statute speaks for itself and, therefore, requires no response. To the extent  
27 that any averment in paragraph is deemed to require a response, Defendant denies  
28 each and every allegation contained therein.

1 21. In answer to paragraph 21 of the Complaint, Defendant denies each and  
2 every allegation contained therein.

3 22. In answer to paragraph 22 of the Complaint, Defendant denies each and  
4 every allegation contained therein.

5 Failure to Design and Construct an Accessible Facility

6 23. In answer to paragraph 23 of the Complaint, Defendant denies each and  
7 every allegation contained therein.

8 24. In answer to paragraph 24 of the Complaint, Defendant states that the  
9 referenced statute speaks for itself and, therefore, requires no response. To the extent  
10 that any averment in paragraph 24 is deemed to require a response, Defendant denies  
11 each and every allegation contained therein.

12 25. In answer to paragraph 25 of the Complaint, Defendant denies each and  
13 every allegation contained therein.

14 Failure to Make an Altered Facility Accessible

15 26. In answer to paragraph 26 of the Complaint, Defendant denies each and  
16 every allegation contained therein.

17 27. In answer to paragraph 27 of the Complaint, Defendant states that the  
18 referenced statute speaks for itself and, therefore, requires no response. To the extent  
19 that any averment in paragraph 27 is deemed to require a response, Defendant denies  
20 each and every allegation contained therein.

21 28. In answer to paragraph 28 of the Complaint, Defendant denies each and  
22 every allegation contained therein.

23 Failure to Modify Existing Policies and Procedures

24 29. In answer to paragraph 29 of the Complaint, Defendant states that  
25 referenced statute speaks for itself and, therefore, requires no response. To the extent  
26 that any averment in paragraph 29 is deemed to require a response, Defendant denies  
27 each and every allegation contained therein.

28 30. In answer to paragraph 30 of the Complaint, Defendant denies each and

1 every allegation contained therein.

2 31. In answer to paragraph 31 of the Complaint, Defendant need not address  
3 Plaintiff's prayer for relief. To the extent that any averment in paragraph 31 is  
4 deemed to require a response, Defendant denies each and every allegation contained  
5 therein.

6 32. In answer to paragraph 32 of the Complaint, Defendant need not address  
7 Plaintiff's prayer for relief. To the extent that any averment in paragraph 32 is  
8 deemed to require a response, Defendant denies each and every allegation contained  
9 therein.

## 10 VII. SECOND CLAIM

### 11 Disabled Person Act

12 33. In answer to paragraph 33 of the Complaint, Defendant reasserts its  
13 responses to paragraphs 1 through 32 of the Complaint as though set forth fully  
14 herein.

15 34. In answer to paragraph 34 of the Complaint, Defendant states that the  
16 referenced statute speaks for itself and, therefore, requires no response. To the extent  
17 that any averment in paragraph 34 is deemed to require a response, Defendant denies  
18 each and every allegation contained therein.

19 35. In answer to paragraph 35 of the Complaint, Defendant states that the  
20 referenced statute speaks for itself and, therefore, requires no response. To the extent  
21 that any averment in paragraph 35 is deemed to require a response, Defendant denies  
22 each and every allegation contained therein.

23 36. In answer to paragraph 36 of the Complaint, Defendant states that the  
24 referenced statute speaks for itself and, therefore, requires no response. To the extent  
25 that any averment in paragraph 36 is deemed to require a response, Defendant denies  
26 each and every allegation contained therein.

27 37. In answer to paragraph 37 of the Complaint, Defendant denies each and  
28 every allegation contained therein.

1 38. In answer to paragraph 38 of the Complaint, Defendant need not address  
 2 Plaintiff's prayer for relief. To the extent that any averment in paragraph 38 is  
 3 deemed to acquire a response, Defendant denies each and every allegation contained  
 4 therein.

5 39. In answer to paragraph 39 of the Complaint, Defendant need not address  
 6 Plaintiff's prayer for relief. To the extent that any averment in paragraph 39 is  
 7 deemed to acquire a response, Defendant denies each and every allegation contained  
 8 therein.

### 9 VIII. THIRD CLAIM

#### 10 Unruh Civil Rights Act

11 40. In answer to paragraph 40 of the Complaint, Defendant reasserts its  
 12 responses to paragraphs 1 through 39 of the Complaint as though set forth fully  
 13 herein.

14 41. In answer to paragraph 41 of the Complaint, Defendant states that the  
 15 referenced statute speaks for itself and, therefore, requires no response. To the extent  
 16 that any averment in paragraph 41 is deemed to require a response, Defendant denies  
 17 each and every allegation contained therein.

18 42. In answer to paragraph 42 of the Complaint, Defendant states that the  
 19 referenced statute speaks for itself and, therefore, requires no response. To the extent  
 20 that any averment in paragraph 42 is deemed to require a response, Defendant denies  
 21 each and every allegation contained therein.

22 43. In answer to paragraph 43 of the Complaint, Defendant states that the  
 23 referenced statute speaks for itself and, therefore, requires no response. To the extent  
 24 that any averment in paragraph 43 is deemed to require a response, Defendant denies  
 25 each and every allegation contained therein.

26 44. In answer to paragraph 44 of the Complaint, Defendant denies each and  
 27 every allegation contained therein.

28 45. In answer to paragraph 45 of the Complaint, Defendant denies each and



1 every allegation contained therein.

2 46. In answer to paragraph 46 of the Complaint, Defendant denies each and  
3 every allegation contained therein.

4 47. In answer to paragraph 47 of the Complaint, Defendant need not address  
5 plaintiff's prayer for relief. To the extent that any averment in paragraph 47 is  
6 deemed to require a response, Defendant denies each and every allegation contained  
7 therein.

8 **IX. FOURTH CLAIM**

9 **Denial of Full and Equal Access to Public Facilities**

10 48. In answer to paragraph 48 of the Complaint, Defendant reasserts its  
11 responses to paragraphs 1 through 47 of the Complaint as though set forth fully  
12 herein.

13 49. In answer to paragraph 49 of the Complaint, Defendant states that the  
14 referenced statute speaks for itself and, therefore, requires no response. To the extent  
15 that any averment in paragraph 49 is deemed to require a response, Defendant denies  
16 each and every allegation contained therein.

17 50. In answer to paragraph 50 of the Complaint, Defendant states that the  
18 referenced statute speaks for itself and, therefore, requires no response. To the extent  
19 that any averment in paragraph 50 is deemed to require a response, Defendant denies  
20 each and every allegation contained therein.

21 51. In answer to paragraph 51 of the Complaint, Defendant denies each and  
22 every allegation contained therein.

23 52. In answer to paragraph 51 of the Complaint, Defendant denies each and  
24 every allegation contained therein.

25 **X. PRAYER FOR RELIEF**

26 Defendant need not address Plaintiff's prayer for relief. To the extent that any  
27 averment in Plaintiff's prayer is deemed to require a response, Defendant denies each  
28 and every allegation contained therein.

**AFFIRMATIVE DEFENSES**

**FIRST SEPARATE AND AFFIRMATIVE DEFENSE**

**(Failure to Comply with Civil Code § 51)**

53. Plaintiff has failed to state a cause of action for violation of the Unruh Civil Rights Act because Plaintiff has failed to comply with *Civil Code* section 51.

**SECOND SEPARATE AND AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

54. Plaintiff's Complaint and each and every claim contained therein fails to state facts sufficient to state a claim upon which relief may be granted.

**THIRD SEPARATE AND AFFIRMATIVE DEFENSE**

**(Breach of Agreement, Covenant or Duty)**

55. Plaintiff's Complaint is barred in its entirety by the fact that Plaintiff breached any agreement, contract, covenant or duty which might be found to exist.

**FOURTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Not Subject to *Civil Code* § 51)**

56. Defendant is not subject to the provisions of the Unruh Civil Rights Act, *Civil Code* sections 51, et seq., for the conduct alleged in Plaintiff's complaint.

**FIFTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Proximate Cause)**

57. In the event that Defendant is in some manner found legally responsible for damages allegedly sustained by Plaintiff, and such damages were proximately caused or contributed to by Plaintiff and/or third parties, Defendant should be indemnified by Plaintiff and/or such third parties. This defense is alleged in the alternative and does not admit any of the allegations contained in the Complaint.

**SIXTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Conduct was Privileged)**

58. Defendant's conduct with regard to the Plaintiff was privileged, justified and in good faith.



**SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Intentional and/or Negligent Conduct)**

59. Defendant alleges that Plaintiff's damages, if any, were caused by Plaintiff's own intentional or negligent acts, thus barring or limiting Plaintiff's right of recovery.

**EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Failure to Mitigate Damages)**

60. Defendant alleges upon information and belief that Plaintiff has failed to act reasonably to mitigate any damages that he has alleged in this action.

**NINTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

61. Defendant is informed and believes and thereon alleges that Plaintiff's claims as contained in the Complaint are barred by the applicable statutes of limitations.

**TENTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Waiver)**

62. Defendant is informed and believes and thereon alleges that Plaintiff has waived any and all claims that he may have had or has against Defendant arising from the transactions and occurrences contained in the Complaint.

**ELEVENTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Estoppel)**

63. Defendant is informed and believes and thereon alleges that Plaintiff is estopped by his own conduct from asserting any and all claims he may have or has against Defendant arising from the transactions and occurrences contained in the Complaint.

**TWELFTH SEPARATE AND AFFIRMATIVE DEFENSE**

**(Doctrine of Laches)**

64. Defendant is informed and believes and thereon alleges that Plaintiff's

1 Complaint is barred, in its entirety, by the Doctrine of Laches.

2 **THIRTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

3 **(Unclean Hands)**

4 65. Defendant is informed and believes and thereon alleges that Plaintiff's  
5 Complaint is barred, in its entirety, by the Doctrine of Unclean Hands.

6 **FOURTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

7 **(Contributory Negligence)**

8 66. Defendant alleges based upon information and belief that any and all  
9 events and happenings, injuries and damages, if any, referred to in said Complaint,  
10 were proximately caused and contributed to by the negligence and fault of Plaintiff,  
11 in that Plaintiff did not exercise ordinary care in his own behalf at the times and  
12 places referred to, and therefore, Plaintiff is completely barred from recovery herein,  
13 or in the alternative, under the doctrine of pure comparative negligence and fault,  
14 said acts of Plaintiff reduces Plaintiff's right to recovery herein by the amount which  
15 such acts contributed to said incidents.

16 **FIFTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

17 **(Assumption of Risk)**

18 67. Defendant alleges based upon information and belief that Plaintiff freely  
19 and voluntarily assumed the risk of injury and damage alleged in this action with full  
20 knowledge and appreciation of the magnitude thereof.

21 **SIXTEENTH SEPARATE AND AFFIRMATIVE DEFENSE**

22 **(Compliance with the ADA)**

23 68. Defendant has had in place at all times, or currently has in place, a plan  
24 for compliance with the Americans With Disabilities Act of 1990 ("ADA"); its plan  
25 is being continuously implemented; continual progress towards full compliance with  
26 the ADA is being made under the Defendant's plan; and the Defendant is in  
27 substantial compliance with the ADA.

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**SEVENTEENTH SEPARATE AND AFFIRMATIVE DEFENSE****(No Reasonable Modifications)**

69. Defendant alleges based upon information and belief that the modifications set forth in Plaintiff's Complaint are not "reasonable modifications" in the policies, practices, or procedures to the extent necessary to afford foods, services, facilities, privileges, advantages, or accommodations to Plaintiff because such modifications would injure the financial operations and/or effectiveness of Defendant's services and facility. *See* 42 U.S.C. § 12.182(b)(2)(A)(ii)(1994).

**EIGHTEENTH SEPARATE AND AFFIRMATIVE DEFENSE****(No Discriminatory Conduct)**

70. Defendant has not engaged in a pattern of discriminatory conduct that violates the Fourteenth Amendment to the United States Constitution.

**NINETEENTH SEPARATE AND AFFIRMATIVE DEFENSE****(Lack of Standing)**

71. Defendant alleges based upon information and belief that Plaintiff lacks standing to assert a claim under the ADA because Plaintiff has not suffered a threatened or actual distinct and palpable injury, there is no causal connection between the injury and Defendant's challenged conduct, and/or there is no substantial likelihood that the relief sought by Plaintiff will prevent or redress the injury.

**TWENTIETH SEPARATE AND AFFIRMATIVE DEFENSE****(Alternative Methods)**

72. Defendant alleges based upon information and belief that they and other third parties (i.e., tenant, landlord, etc.) provide persons with disabilities alternatives to barrier removal by providing access to goods by alternative methods such as customer services and sales assistance.

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**TWENTY-FIRST SEPARATE AND AFFIRMATIVE DEFENSE****(Isolated and/or Temporary Interruptions)**

73. Defendant alleges based upon information and belief that Defendant was privileged and or justified for the alleged conduct, if any, because the alleged barriers were isolated and/or temporary interruptions in service or access due to maintenance and/or repairs.

**TWENTY-SECOND SEPARATE AND AFFIRMATIVE DEFENSE****(Consent)**

74. Plaintiff, at all relevant times, gave his consent, express or implied, to the alleged acts, omissions, and/or conduct of Defendant.

**TWENTY-THIRD SEPARATE AND AFFIRMATIVE DEFENSE****(Direct Threat to Health and Safety)**

75. Defendant alleges that, to the extent they engaged in any of the conduct alleged in the Complaint, they did so because the Plaintiff poses a direct threat to his health or safety or the health or safety of other individuals at the facility.

**TWENTY-FOURTH SEPARATE AND AFFIRMATIVE DEFENSE****(Good Faith Belief)**

76. The Complaint is barred, in whole or in part, because any actions taken with respect to Plaintiff were based on honest, reasonable, and good faith beliefs in the facts as known and understood at the time.

**TWENTY-FIFTH SEPARATE AND AFFIRMATIVE DEFENSE****(Good Cause)**

77. Plaintiff's Complaint, and each and every claim contained therein, is barred, in whole or in part, because Defendant's activities undertaken with respect to Plaintiff, if any, were based upon good cause.

**TWENTY-SIXTH SEPARATE AND AFFIRMATIVE DEFENSE****(Lack of Basis for Attorneys' Fees/Costs)**

78. Plaintiff's Complaint, and each and every claim set forth therein, fails to

1 set forth facts to constitute a basis for recovery of attorneys' fees and costs.

2 **TWENTY-SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE**

3 **(After-Acquired Evidence)**

4 79. Defendant is informed and believes and thereon alleges that the  
5 Complaint is limited or subject to an absolute bar as to recoverable damages based  
6 on after-acquired evidence the Defendant has presently and/or may acquire during  
7 the course of this litigation.

8 **TWENTY-EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE**

9 **(No Private Right of Action)**

10 80. Plaintiff lacks standing to assert a claim for denial of accessible  
11 sanitary facilities in violation of *California Health & Safety Code* §§ 19955 et seq.,  
12 because there is no private right of action thereunder. *California Health & Safety*  
13 *Code* §19958.5.

14 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

15 **(No Standing for Barriers Not Affecting Plaintiff's Gender or Disability)**

16 81. Plaintiff lacks standing to seek relief for barriers not affecting his own  
17 gender or disability.

18 **THIRTIETH AFFIRMATIVE DEFENSE**

19 **(Premises Were Not Altered or Modified After the**  
20 **Effective Date of Title III of ADA)**

21 82. On information and belief, the premises owned and/or leased by  
22 Defendant was not altered or modified after January 26, 1992. 14 U.S.C. § 12183(a);  
23 34 Code Fed. Regs. § 36.402.

24 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

25 **(Failure to Plead with Certainty and Particularity)**

26 83. The allegations of the Complaint, and each purported cause of action  
27 contained therein, are not pled with sufficient particularity and are uncertain, vague,  
28 ambiguous and unintelligible.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

**(No Basis For Attorneys' Fees)**

84. Pursuant to *Jerry Doran v. Del Taco, Inc.* 2005 WL 1389270, Plaintiff is not entitled to recover attorneys' fees or costs, as he failed to allow Defendant an opportunity to remediate any barriers alleged to exist at the subject facility.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

**(No Discriminatory Conduct)**

85. Defendant has not engaged in a pattern of discriminatory conduct that violates the Fourteenth Amendment to the United States Constitution.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

**(Not readily achievable)**

86. Some or all of the barrier removal proposed by Plaintiff are not readily achievable.

**THIRTY-FIFTH AFFIRMATIVE DEFENSE**

**(Premises Constructed Prior to Effective Date of Title III of ADA)**

87. On information and belief, the premises owned and/or leased by Defendant was designed and constructed for first occupancy prior to the effective date of Title III of the ADA.

**THIRTY-SIXTH AFFIRMATIVE DEFENSE**

**(Unintentional Conduct / Violation)**

88. Plaintiff has failed to state a cause of action for violation of the Unruh Civil Rights Act because, to the extent that any violation existed, such violation was unintentional. This defense is plead in the alternative and does not admit that any violation existed.

**THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

**(Supplemental Jurisdiction Improper)**

89. Supplemental jurisdiction of the state law claims is improper as it is based on new and/or complicated issues of state law.



**THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

**(Maximum Extent Feasible)**

90. Plaintiff's Complaint, and each and every claim contained therein, is barred, in whole or in part, because Defendant has made the public accommodation at issue accessible to disabled customers to the maximum extent feasible.

**THIRTY-NINTH AFFIRMATIVE DEFENSE**

**(Dimensional Tolerances)**

91. Plaintiff's Complaint, and each and every claim contained therein, is barred, in whole or in part, because, to the extent any architectural barriers alleged by Plaintiff exist, such barriers are within permissible state and federal dimensional tolerances. This defense is plead in the alternative and does not admit that any violation existed.

**FORTIETH AFFIRMATIVE DEFENSE**

**(Unknown Defenses)**

92. Defendant presently has insufficient knowledge or information on which to form a belief as to whether it may have additional as yet unstated defenses available. Defendant reserves herein the right to assert additional defenses in the event discovery indicates that they would be appropriate.

**PRAYER**

WHEREFORE, Defendant prays as follows:

1. Plaintiff take nothing by the Complaint;
2. Judgment be rendered in favor of Defendant;
3. Defendant be awarded costs of suit;
4. Defendant be awarded its attorneys' fees incurred in the defense of this action; and
5. Defendant be awarded whatever further relief the Court deems just and proper.

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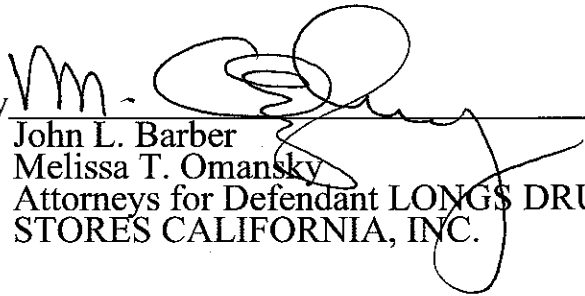
**DEMAND FOR JURY**

Defendant hereby demands a jury pursuant to FRCP 38(b) on all issues raised in the Complaint of Plaintiff A. J. OLIVER.

DATED: August 26, 2008

JOHN L. BARBER  
MELISSA T. OMANSKY  
LEWIS BRISBOIS BISGAARD & SMITH LLP

By

  
John L. Barber  
Melissa T. Omansky  
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STORES CALIFORNIA, INC.

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**FEDERAL COURT PROOF OF SERVICE**

*Oliver v. Longs Drug Stores California, Inc., et al.* - File No. 21149-250

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On August 27, 2008, I served the following document described as **DEFENDANT LONGS DRUG STORES CALIFORNIA, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** on all interested parties in this action by placing ☒ a true copy ☐ the original thereof enclosed in sealed envelopes addressed as follows:

Lynn Hubbard, III, Esq.  
ScottLynn Hubbard, IV, Esq.  
Law Offices of Lynn Hubbard  
12 Williamsburg Lane  
Chico, California 95926  
Tel.: (530) 895-3252  
Fax: (530) 894-8244

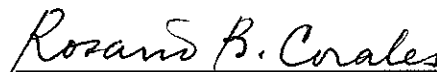
☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

☐ (BY PERSONAL SERVICE) I delivered the foregoing envelope by hand to the offices of the addressee.

☐ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed August 27, 2008, at Los Angeles, California.

  
ROSARIO B. CORALES